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MAILED

AUG 29 2006

CENTRAL REEXAMINATION UNIT

In re Application of :  
Niles R. Rosenquist :  
Application No. 10/665,551 : DECISION TERMINATING  
Filed: September 3, 2003 : REISSUE PROCEEDING  
Attorney Docket No. 08CL6929-4 :

This is a decision terminating the instant reissue proceeding based on (1) the expiration of U.S. Patent No. 5,367,044, for which the present application requests reissue, and (2) the failure of applicant to respond to the Order To Show Cause mailed June 14, 2006.

### BACKGROUND

*(Redrafted from the Order To Show Cause)*

1. The present application ("present reissue proceeding") was filed September 3, 2003, for reissue of U.S. Patent No. 5,367,044 (the '044 patent), which issued November 22, 1994.
2. The Office's financial records reveal that the 7.5 year maintenance fee due by May, 22, 2002, was not paid by November 22, 2002, the end of the grace period.
3. The Office records reveal that the '044 patent has expired for failure to pay the 7.5 year maintenance fee. See 1266 *Official Gazette* 737 (January 23, 2003).

### DECISION

A review of the record reveals that the time for filing a response to the Order To Show Cause has expired and there is no indication in the record that a response to the Order To Show Cause has been filed. In addition, no petition addressing the failure to timely pay the 7.5 year maintenance fee has been filed. Therefore, the Director of the USPTO no longer has the authority under 35 U.S.C. 251 to reissue the '044 patent. See *In re Morgan*, 990 F.2d 1230, 26 USPQ2d 1392 (Fed. Cir. 1993).

### CONCLUSION

1. The present reissue proceeding, application No. 10/655,551 is hereby terminated.
2. The present reissue proceeding, application No. 10/655,551 is being forwarded to Technology Center Art Unit 1711 for processing as an abandoned application.

3. Telephone inquiries related to this decision should be directed to Fred Silverberg, Senior Legal Advisor, at (571) 272-7719 or, in his absence to Kenneth M. Schor, Senior Legal Advisor, at (571) 272-7710.

A handwritten signature in black ink, appearing to read "Kenneth M. Schor". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Kenneth M. Schor  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner for Patent Examination Policy